

ACTUAL POSSESSION of the claimed invention. To the extent that the Examiner still remains unpersuaded, Applicants can deposit the ES cell lines at issue with the ATCC to dispositively deal with the written description issue when and if all other remaining issues of patentability have been resolved.

As discussed above, the GENSEQ accession no. (see Exhibit A) clearly referenced in Figure 2 of the present specification corresponds to a human homolog of the mutated allele present within the ES cell line as identified by SEQ ID NO:2. In view of the clear evidence of record that those skilled in the art knew of the CACNG sequence, and could have thus determined that the described ES cell line contained a mutation in a murine homolog of the CACNG locus by virtue of its structural similarity to the sequence presented in SEQ ID NO:2 (which is how the exemplified ES cell line at issue was identified, catalogued, and queued for the production of the corresponding line of hyperactive mutant mice), there can be no bona fide question that the described ES cells were in Applicants actual possession (meeting the written description requirement) and enabled (since, given the rich history in the field, there can be little question that those skilled in the art could use the provided ES cells to produce corresponding mutant animals without undue experimentation). It is assumed that the above evidence of record largely dispenses with the Examiner's concerns that some of the encompassed sequences "may not be real sequences corresponding to real genes." Again, the present claims are not claiming a cDNA sequences *per se*, they are directed to novel mammalian cell lines that encompass any mutation that disrupts the functional expression of the murine homolog of the human CACNG sequence (identified by GENSEQ accession no. Y84372 in Figure 2 of the specification). In view of the above remarks and considerations, the Examiner is respectfully requested to withdraw the pending rejection of Claims 1-7 under 35 U.S.C. §112, first paragraph for alleged want of adequate written description..

To the extent that the Examiner might suggest alternative claims language that would avoid any of the above rejections, the Examiner is invited to suggest such language if it will put the claim or claims in condition for allowance.

### **III. CONCLUSION**

In view of the foregoing amendments and remarks, the Applicants believe that the application is in good and proper condition for allowance. Early notification to that effect is earnestly solicited.

If the Examiner feels that a telephone call would expedite the consideration of the application, the Examiner is invited to call the undersigned attorney at (281) 863-3333. The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-0892

for any matter in connection with this response, including fees for any extension of time, which may be required.

Respectfully submitted,

April 23, 2004  
Date



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Lance K. Ishimoto  
Attorney for Applicant

Reg. No. 41,866

LEXICON GENETICS INCORPORATED  
8800 Technology Forest Place  
The Woodlands, TX 77381  
(281) 863-3333

**Customer # 24231**